



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

American Specialty Pharmacy

Respondent Name

Liberty Insurance Corporation

MFDR Tracking Number

M4-15-4215-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

August 28, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "... this treatment is necessary to achieve a therapeutic outcome ... This medication is medically necessary in order to decrease pain, reduce the need for narcotics and/or other prescription analgesics and to preserve the function of the patient..."

Amount in Dispute: \$1511.22

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The charges in dispute are for a compound drug. One or more of the drugs used in this compound are 'N' classified drugs. According to requirements of Texas TAC 134.530, preauthorization is required for drugs not included in the closed formulary. We have no record of a request for preauthorization."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 5, 2015	Prescription Medication (Compound Cream)	\$1511.22	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.530 sets out the requirements for use of the closed formulary for claims not subject to certified networks.
3. 28 Texas Administrative Code §134.600 sets out the procedures regarding preauthorization of health care.
4. 28 Texas Administrative Code §133.240 sets out the procedures for payment and denial of medical bills.

5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- 197 – Not defined as required in 28 Texas Administrative Code §133.240
 - XF06 – Per TX rule 134.600 Pre-auth is required. If services have been preauthorized resubmit the bill with authorization info for reconsideration.

Issues

Are the insurance carrier's reasons for denial or reduction of payment supported?

Findings

The insurance carrier denied disputed services with claim adjustment reason code XF06 – “PER TX RULE 134.600 PRE-AUTH IS REQUIRED...” The disputed services are subject to the closed formulary rules found in 28 Texas Administrative Code §134.540 which states,

- (b) Preauthorization for claims subject to the Division's closed formulary.
- (1) Preauthorization is only required for:
- (A) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
 - (B) **any compound that contains a drug identified with a status of 'N' in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;** [emphasis added] and
 - (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Review of the submitted documentation finds that the dispute involves a compound drug that includes the ingredients Flurbiprofen, Ketamine, Lidocaine, Gabapentin, Ethoxy Diglycol, Propylene Glycol, and Versapro Cream. The ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary in effect on the date of service finds that Ketamine and Lidocaine are “N” status drugs. Therefore, the compound requires preauthorization.

28 Texas Administrative Code §134.530 (e)(1) states, “For situations in which the prescribing doctor determines and documents that a drug excluded from the closed formulary is necessary to treat an injured employee's compensable injury and has prescribed the drug, the prescribing doctor, other requestor, or injured employee must request approval of the drug by requesting preauthorization, including reconsideration, in accordance with §134.600 of this title and applicable provisions of Chapter 19 of this title (relating to Agents' Licensing).” Review of the submitted information does not find that a request for preauthorization was requested or obtained in accordance with 28 Texas Administrative Code §134.600. For this reason, the insurance carrier's denial reason is supported. Additional reimbursement cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

September 30, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.